

**Illinois Department of Revenue
Regulations**

Title 86 Part 100 Section 100.9300 Deficiencies and Overpayments (IITA Section 904)
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TITLE 86: REVENUE

**PART 100
INCOME TAX**

SUBPART X: DEFICIENCIES AND OVERPAYMENTS

Section 100.9300 Deficiencies and Overpayments (IITA Section 904)

a) Examination of return

The Department shall examine a return as soon as practicable after it is filed to determine the correct amount of tax. If for reasons other than mathematical error (see Section 100.9200(a)(1) of this Part) the Department finds that the correct amount of tax exceeds that shown on the return, and the taxpayer disagrees, the Department then shall issue to the taxpayer, subject to applicable limitations in IITA Section 905 (see Section 100.9230 of this Part), a notice of deficiency which shall set forth the amount of tax and any penalties proposed to be assessed. (See IITA Section 904(c).) Note that, in the absence of a written protest of the notice so issued (see 86 Ill. Adm. Code 200.120(b)), the Department's final action thereunder is not an administrative decision subject to judicial review (except as to jurisdictional questions) under the provisions of the Administrative Review Act (see Section 100.9600 of this Part). If the Department finds that the tax paid exceeds the correct amount, it shall credit or refund the overpayment as provided by IITA Section 909. The Department's findings hereunder shall be deemed prima facie correct and shall constitute prima facie evidence of the correctness of the amount of tax and penalties due.

b) No return filed

If any taxpayer fails to file a return required by the Act, the Department under its authority for access to books and records and to conduct examinations, investigations, and hearings provided in IITA Sections 913 through 916, using any reasonable method in accordance with its best judgment and information, shall determine the correct amount of tax due and without any time limitation (see IITA Section 905(c)) shall issue to the taxpayer a notice of deficiency setting forth the amount of tax and penalties proposed to be assessed. The term "reasonable method", for example, shall include any method or combination of methods to reconstruct the taxpayer's Illinois net income established or acceptable under federal 26 USC Section 446, e.g., methods based in whole or part on cash register receipts, specific items of income or expense, bank deposits, expenditures (including use of the rule in *Cohan v. Commissioner*, 39 F. 2d 540 (2d Cir.), to determine the amounts of allowable expenses), net worth, or other acceptable or accepted method. (In this connection see also Section 100.9200(a)(4) of this Part.) The Department's determination shall be deemed prima facie correct and shall constitute prima facie evidence of the correctness of the amount of tax due.

c) Notice of deficiency

A notice of deficiency issued under the Act shall set forth the reasons therefor and a basis sufficient to inform the taxpayer of the adjustments giving rise to the proposed assessment. In case a joint return was filed, the Department may issue a single joint notice of deficiency to the taxpayers unless it has been notified by either of the spouses that separate residences have been established in which case it shall issue the joint notice of deficiency to each spouse.

d) Assessment when no protest

The amount of tax and penalties specified in a notice of deficiency shall be deemed assessed upon the expiration of 60 days (150 days if the taxpayer is outside the United States) from the date of issuance to the taxpayer except only for such amounts as to which the taxpayer shall have filed a protest as provided in IITA Section 908. (See 86 Ill. Adm. Code 200.120(b).)

(Source: Amended at 24 Ill. Reg. 10593, effective July 7, 2000)